

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** October 13, 2017

**Thru:** Bridget C. Bohac, Chief Clerk  
Richard A. Hyde, P.E., Executive Director

**From:** Brent Wade, Deputy Director  
Office of Waste

**Docket No.:** 2017-0894-RUL

**Subject:** Commission Approval for Proposed Rulemaking  
Chapter 336, Radioactive Substance Rules  
HB 2662: LLRW Compact Disposal Facility Fees  
Rule Project No. 2017-032-336-WS

### **Background and reason(s) for the rulemaking:**

House Bill (HB) 2662, 85th Texas Legislature, 2017, repeals the 5% gross receipts fee on all compact and federal waste disposal for the biennium beginning September 1, 2017. The 5% fee is deposited into the State's General Revenue. In Fiscal Years (FYs) 2015 and 2016, the agency collected \$4.3 million in revenue from the 5% surcharge. The revenue is anticipated to return to the current level once the fee is re-established on September 1, 2019. The bill was effective immediately.

### **Scope of the rulemaking:**

**A.) Summary of what the rulemaking will do:** The rulemaking will repeal the 5% gross receipts fee in 30 TAC §336.103.

**B.) Scope required by federal regulations or state statutes:** HB 2662 requires the repeal of the 5% gross receipts fee.

**C.) Additional staff recommendations that are not required by federal rule or state statute:** None.

### **Statutory authority:**

Texas Health and Safety Code (THSC), Chapter 401; THSC §§401.011, 401.051, 401.103(b), 401.104, 401.201, and 401.2445; and Texas Water Code §5.103.

### **Effect on the:**

**A.) Regulated community:** An estimated reduction of \$4.3 million in fees for the FY 2018 - FY 2019 biennium.

**B.) Public:** None are anticipated.

**C.) Agency programs:** None are anticipated.

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**Stakeholder meetings:**

No stakeholder meetings are planned; however, a public hearing will be held during the comment period.

**Potential controversial concerns and legislative interest:**

None are anticipated.

**Will this rulemaking affect any current policies or require development of new policies?** No.

**What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?** Without rulemaking, Chapter 336 would be inconsistent with the legislative mandate.

**Key points in the proposal rulemaking schedule:**

**Anticipated proposal date:** November 1, 2017

**Anticipated *Texas Register* publication date:** November 17, 2017

**Anticipated public hearing date:** December 12, 2017

**Anticipated public comment period:** November 17, 2017 - December 22, 2017

**Anticipated adoption date:** April 2018.

**Agency contacts:**

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Amie Robinson, Staff Attorney, (512) 239-2999

Kris Hogan, Texas Register Rule/Agenda Coordinator, (512) 239-6812

**Attachments:**

HB 2662

cc: Chief Clerk, 2 copies  
Executive Director's Office  
Erin Chancellor  
Stephen Tatum  
Jim Rizk  
Office of General Counsel  
Hans Weger  
Kris Hogan  
Amie Robinson